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RECORDATION NO. _____ Filed & Recorded

MAR 13 1972 - 1 20 PM

INTERSTATE COMMERCE COMMISSION

LEASE OF RAILROAD EQUIPMENT

between

CANADIAN ACCEPTANCE CORPORATION LIMITED

and

CANADIAN NATIONAL RAILWAY COMPANY

Dated as of February 28, 1972

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LEASE OF RAILROAD EQUIPMENT dated as of February 28, 1972, between CANADIAN ACCEPTANCE CORPORATION LIMITED (hereinafter called the "Lessor") and CANADIAN NATIONAL RAILWAY COMPANY, (hereinafter called the "Lessee").

WHEREAS the Lessor has entered into a Conditional Sale Agreement dated as of February 28, 1972 (hereinafter called the "Conditional Sale Agreement"), with Canada Permanent Trust Company (hereinafter referred to as the "Vendor"), wherein the Vendor has agreed to sell and deliver to the Lessor the units of railroad equipment described in Schedule A hereto; and

WHEREAS the Vendor is purchasing the said units of railroad equipment from Hawker Siddeley Canada Ltd. and National Steel Car Corporation, Limited (hereinafter referred to collectively as the "Manufacturers" and individually as the "Manufacturer") under agreements (hereinafter collectively referred to as the "Manufacturing Agreements" and individually as the "Manufacturing Agreement") dated as of February 28, 1972 and made among the respective Manufacturers, the Lessor, the Vendor and the Lessee; and

WHEREAS the Lessee desires to lease all the units of said railroad equipment, or such lesser number as are delivered, accepted and settled for under the Manufacturing Agreements on or prior to July 6, 1972 (hereinafter called the "Units"), at the rentals and for the terms and upon the conditions hereinafter provided.

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions, but, upon default of the Lessee hereunder, subject to all the rights and remedies of the Vendor under the Conditional Sale Agreement:

§ 1. *Delivery and Acceptance of Units.* The Lessor will cause each Unit to be tendered to the Lessee at the point or points in Canada and on the date or dates specified in Schedule II to the Manufacturing Agreements. Upon such tender, the Lessee will cause an authorized representative of the Lessee to inspect the same, and if such Unit is found to be in good order, to accept delivery of such Unit, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease. Any Unit or Units excluded from the Conditional Sale Agreement pursuant to Article 2 thereof and Article 2 of the Manufacturing Agreements shall likewise be excluded from this Lease. Upon such tender, the Lessee shall execute and deliver to the Lessor, to the Vendor and to the Manufacturer of such Unit, a certificate of acceptance and delivery respecting Units theretofore delivered to the Lessee in the manner aforesaid (hereinafter called a

as though the same were delivered to the Lessee

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"Lease Schedule") substantially in the form of Schedule "B" annexed hereto and upon execution thereof as aforesaid shall be attached hereto and form part hereof. In no event shall the Lessee place any Unit in service or otherwise use any Unit prior to the delivery by the Lessee in the manner aforesaid, ~~of a Lease Schedule relating to such Unit.~~

The Lessee represents and warrants that, at the time of delivery of each Unit to the Lessee, such Unit will not have been used by the Lessee and no capital cost allowance as provided for under the Act (as defined in § 15 hereof) will have been claimed by the Lessee with respect thereto.

§ 2. *Rentals.* The Lessee agrees to pay to the Lessor as rental for each Unit subject to this Lease thirty-one (31) consecutive semi-annual payments, payable on the business day next preceding February 28 and August 28 of each year commencing August 28, 1972. The first of such half-yearly payments shall be in an amount equal to .0224658% of the Unit Cost (as defined in the Manufacturing Agreements) of each Unit subject to this Lease for each day elapsed from and including the date such Unit is settled for under the Manufacturing Agreements to August 28, 1972; the next ten (10) of such payments shall be in an amount equal to 3.03752% of the Unit Cost of each Unit; and the remaining twenty (20) of such payments shall be in an amount equal to 6.52105% of the Unit Cost of each Unit.

All payments provided for in this Lease to be made to the Lessor shall be paid to the Lessor at Two St. Clair Avenue West, Toronto, Ontario, or to such address as from time to time may be designated by the Lessor.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatement, reductions or setoffs due or alleged to be due to, or by reason of, any past, present or future claims of the Lessee against the Lessor under this Lease or the Manufacturers or the Vendor under the Manufacturing Agreements or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use of or destruction of all or any of the Units from whatsoever cause, the prohibition of or other restriction against use of all or any of the Units by the Lessee or any other person, the interference with such use by any private person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease.

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§ 3. *Term of Lease.* The term of this Lease as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit and, subject to the provisions of §§1, 6, 9 and 12 hereof, shall terminate on August 28, 1987.

Notwithstanding anything to the contrary contained herein, all rights and obligations under this Lease and in and to the Units, upon default by the Lessee hereunder, are subordinate, junior in rank and subject to the rights of the Vendor under the Conditional Sale Agreement and the Lease Assignment.

§ 4. *Identification Marks.* The Lessee will cause such Unit to be kept numbered with the identifying number set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of such Unit, in letters not less than three-eighths inch in height, the following words:

"OWNED BY CANADA PERMANENT TRUST COMPANY, 320 BAY STREET, TORONTO, CANADA, AS TRUSTEE AND VENDOR UNDER THE TERMS OF AN EQUIPMENT LOAN TRUST DECLARATION AND A CONDITIONAL SALE AGREEMENT"

or other appropriate words designated by the Lessor, with appropriate changes therein and additions thereto as from time to time may be required by law in order to protect the title of the Lessor or the Vendor to such Unit and the rights of the Lessor under this Lease and of the Vendor under the Conditional Sale Agreement. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such names and word or words shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change or permit to be changed the identifying number of any Unit except in accordance with a statement of new identifying numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease will have been filed, recorded or deposited.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Units as a designation that might be interpreted as a claim of ownership; *provided, however*, that the Lessee may cause the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or any permitted sublessee on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

§ 5. *Taxes.* All payments to be made by the Lessee hereunder will be free of expense to the Lessor and the Vendor for collection or other charges and

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will be free of expense to the Lessor and the Vendor with respect to the amount of any Canadian, United States or Mexican local, state, federal or provincial taxes (other than any Canadian local, provincial or federal income taxes and, to the extent that the Lessor receives credit for such taxes against any of its said Canadian income tax liability, any United States or Mexican, local, state or federal income tax, payable by the Lessor in consequence of the receipt of payments provided herein and other than the aggregate of all local, provincial or city income taxes or franchise taxes measured by net income based on such receipts, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), assessments, duties or license fees, and any charges, fines or penalties in connection therewith (all such expenses, taxes, assessments, duties, license fees, charges, fines and penalties being hereinafter called "Impositions"), hereafter levied or imposed upon or in connection with or measured by, this Lease or any sale, rental, use, payment, shipment, import, export, delivery or transfer of title under the terms hereof, of the Manufacturing Agreements or of the Conditional Sale Agreement, all of which Impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. At the option of the Lessor, such payment of Impositions by the Lessee shall be made directly to the appropriate taxing authority. The Lessee will also pay promptly all Impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all Impositions which might in any way affect the title of the Lessor or the Vendor or result in a lien upon such Unit; *provided, however*, that the Lessee shall be under no obligation to pay any Impositions so long as it is contesting in good faith and by appropriate legal proceedings such Impositions and the nonpayment thereof does not, in the opinion of the Lessor or Vendor, adversely affect the property or rights of the Lessor or Vendor hereunder, under the Manufacturing Agreements or under the Conditional Sale Agreement. If any Impositions shall have been charged or levied against the Lessor or the Vendor directly and paid by the Lessor or the Vendor, the Lessee shall reimburse the Lessor or the Vendor on presentation of an invoice therefor; provided, however, that the Lessee shall not be obligated to reimburse the Lessor or the Vendor for any Imposition so paid unless, (a) prior to such payment, the Lessor or the Vendor shall have obtained the opinion of either of their respective counsel that either the Vendor or the Lessor was liable to pay such Imposition, or (b) the Lessee shall have approved of such payment.

In the event any reports with respect to Impositions are required to be made, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the Vendor in such Units or notify the Lessor and the Vendor of such requirement and will make such reports in such manner as shall be satisfactory to the Lessor and the Vendor.

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In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any Impositions pursuant to this § 5, such liability shall continue, notwithstanding the expiration of this Lease, until all such Impositions are paid or reimbursed by the Lessee.

§ 6. *Payment for Casualty Occurrences.* In the event that any Unit shall be or become worn out, lost, stolen, destroyed, irreparably damaged or damaged beyond economic repair, from any cause whatsoever or taken or requisitioned by condemnation, expropriation or otherwise (such occurrences being hereinafter called "Casualty Occurrences") during the term of this Lease, the Lessee shall promptly after it shall have determined that such Unit has suffered a Casualty Occurrence, fully inform the Lessor and the Vendor in regard thereto. The Lessee shall (a) within the then current taxation year of the Lessor, either (i) replace such Unit with another unit of railway equipment of the same or similar type and with a value not less than the Fair Market Value (as defined in § 12 hereof) of such Unit immediately prior to its suffering the Casualty Occurrence, or (ii) with the prior written consent of the Lessor and of the holders of not less than 66 $\frac{2}{3}$ % in principal amount of the issued and outstanding Loan Certificates, replace such Unit with other railway equipment having a value not less than the Fair Market Value of such Unit immediately prior to its suffering the Casualty Occurrence which is acceptable to the Lessor and such holders, and thereupon such other unit or such other railway equipment shall be and become part of the Units hereunder and be subject to all the terms and provisions hereof and in such event no rental payable hereunder with respect to such Unit as has suffered a Casualty Occurrence or such other unit or such other railway equipment replacing such Unit shall abate, or (b) continue to pay rent in respect of such Unit and, upon 15 days prior written notice to the Lessor and the Vendor pay, on any rental payment date which is more than 15 days after such Casualty Occurrence and not later than the rental payment date next following the end of the Lessor's current taxation year, to the Lessor an amount equal to the accrued unpaid rental for such Unit to the date of such payment plus a sum equal to the Casualty Value, as hereinafter defined, of such Unit on the applicable rental payment date. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue and the term of this Lease as to such Unit shall terminate. The Lessor shall, upon request of the Lessee, after payment by the Lessee of a sum equal to the Casualty Value of any such Unit, deliver to or upon the order of the Lessee a bill of sale (without warranties) for such Unit executed by the Lessor and the Vendor and such other or others as may be required in order to transfer to the Lessee such title to such Unit as the Lessor or the Vendor derived from the respective Manufacturer free and clear of all liens, security interests and other encumbrances arising through the Lessor or the Vendor.

The Casualty Value of each Unit as of any rental payment date shall be

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that percentage of the Unit Cost applicable to such Unit set forth in the schedule set out below opposite such rental payment date:

<u>Rental Payment Date</u>	<u>Percentage</u>	<u>Rental Payment Date</u>	<u>Percentage</u>
August 28, 1972.....	100.9375%	February 28, 1985.....	49.7410%
February 28, 1973.....	102.2759%	August 28, 1985.....	44.5948%
August 28, 1973.....	103.6142%	February 28, 1986.....	39.1324%
February 28, 1974.....	104.2046%	August 28, 1986.....	33.6699%
August 28, 1974.....	105.7949%	February 28, 1987.....	27.8826%
February 28, 1975.....	106.6839%	August 28, 1987.....	22.0953%
August 28, 1975.....	107.5728%	February 28, 1988.....	20.7143%
February 28, 1976.....	108.2919%	August 28, 1988.....	19.3332%
August 28, 1976.....	109.0110%	February 28, 1989.....	17.9522%
February 28, 1977.....	109.5853%	August 28, 1989.....	16.5711%
August 28, 1977.....	110.1595%	February 28, 1990.....	15.1901%
February 28, 1978.....	107.0981%	August 28, 1990.....	13.0890%
August 28, 1978.....	104.0366%	February 28, 1991.....	12.4280%
February 28, 1979.....	100.6765%	August 28, 1991.....	11.0469%
August 28, 1979.....	97.3163%	February 28, 1992.....	9.6659%
February 28, 1980.....	93.6622%	August 28, 1992.....	8.2848%
August 28, 1980.....	90.0081%	February 28, 1993.....	7.9563%
February 28, 1981.....	86.0617%	August 28, 1993.....	7.6278%
August 28, 1981.....	82.1153%	February 28, 1994.....	7.2993%
February 28, 1982.....	77.8755%	August 28, 1994.....	6.9708%
August 28, 1982.....	73.6357%	February 28, 1995.....	6.6423%
February 28, 1983.....	69.0994%	August 28, 1995.....	6.3139%
August 28, 1983.....	64.5630%	February 28, 1996.....	5.9854%
February 28, 1984.....	59.7251%	August 28, 1996.....	5.6569%
August 28, 1984.....	54.8871%	February 28, 1997.....	5.3284%
		August 28, 1997.....	5.0000%

Except as hereinabove in this § 6 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit after delivery to and acceptance thereof by the Lessee hereunder. The Lessor represents that its taxation year ends on December 31 and will forthwith notify the Lessee of any change in its taxation year.

Although the Lessee shall not be required to maintain insurance on any Unit other than as provided in § 8 hereof, the Lessee agrees that the benefits of any insurance maintained by it upon the Units will be made available to the Lessor and the Vendor, as their interests may appear, to the extent the Lessee is permitted to do so under such policies of insurance. Any net insurance proceeds as the result of insurance carried by the Lessee or proceeds of payments as com-

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pensation for requisition by condemnation or expropriation received by the Lessor in respect of Units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Lessee to the Lessor in respect of Casualty Occurrences pursuant to this § 6. If the Lessor shall receive any such net insurance proceeds or any such condemnation or expropriation payments after the Lessee shall have made payments pursuant to this § 6 without deduction for such net insurance proceeds or such condemnation or expropriation payments, the Lessor shall pay such proceeds to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds shall remain the property of the Lessor.

§ 7. *Annual Reports.* On or before February 15 in each year commencing with the year 1973, the Lessee will cause to be furnished to the Lessor and the Vendor in such number of counterparts or copies as may reasonably be requested an accurate statement signed by the Lessee's authorized representative, as of the preceding January 1, (a) showing the amount, description and numbers of the Units then leased hereunder, the amount, description and number of all Units that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the markings required by § 4 hereof and Article 4 of the Conditional Sale Agreement shall have been preserved or replaced. The Lessor shall have the right at its sole cost and expense, by its authorized representatives, to inspect the Units and the Lessee's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Lessor the existence and proper maintenance thereof during the continuance of this Lease.

§ 8. *Disclaimer of Warranties; Lessor's Representation and Warranties; Compliance with Laws and Rules; Maintenance; Indemnification; Insurance.* The Lessor makes no warranty or representation, either express or implied, as to the design or compliance with specifications or condition of, or as to the quality of the material, equipment or workmanship in, or as to the suitability, adequacy, operation, use or performance of, the Units delivered to the Lessee hereunder, and the Lessor makes no warranty of merchantability or fitness of the Units for any particular purpose, it being agreed that all such risks, as between the Lessor and the Vendor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name and for the account of the Lessor and/or the Lessee, as their interests may appear, whatever claims and rights the Lessor may have under the provisions of the Manufacturing Agreements. Lessor shall have no responsibility or liability under this Lease to the Lessee or any other

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So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Units and to the use thereof by it or any affiliated or subsidiary corporation upon its or their lines of railroad or upon lines of railroad over which the Lessee or such other Corporation has trackage or other operating rights or over which railroad equipment of the Lessee or any such other corporation is regularly operated pursuant to contract, and also to permit the use of the Units upon other railroads in the usual interchange of traffic (if such interchange is customary at the time), but only upon and subject to all the terms and conditions of this Lease and the Conditional Sale Agreement.

Nothing in this § 11 shall be deemed to restrict the right of the Lessee (i) to assign or transfer its leasehold interest under this Lease in the Units or position of the Units to any corporation incorporated under the laws of Canada (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become amalgamated, merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety; or (ii) to sublease any Unit to such subsidiary or affiliated corporations of the Lessee as are at the time such sublease is executed domestic railroad corporations incorporated under the laws of Canada or any province thereof or any state of the United States of America or the District of Columbia; *provided, however*, that the rights of such sublessee are made expressly subordinate to the rights and remedies of the Vendor under the Conditional Sale Agreement and the Lessor under this Lease. No such sublease shall relieve the Lessee of any liability or obligation hereunder which shall be and remain that of a principal and not a surety.

§ 12. *Purchase and Renewal Options.* Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by written notice delivered to the Lessor not less than six months prior to the expiration of the original term of this Lease or six months prior to the expiration of any extended term of this Lease elect to purchase all or any of the Units then covered by this Lease at the end of the original term of this Lease or at the end of any extended term of this Lease for a purchase price equal to the "Fair Market Value" of such units as of the end of such term. If at the end of the original term of this Lease or at the end of the first extended term of this Lease the Lessee shall elect to purchase less than all of the Units then covered by this Lease the Units purchased by the Lessee shall cease to be Units then covered by this Lease and such purchase shall not affect the Lessee's right as to the balance of the Units covered by this Lease to extend the term of this Lease as aforesaid.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by written notice delivered to the Lessor not less than six months prior to the expiration of the original term of this Lease elect to extend the term of this Lease in respect to all, but not fewer

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than all, Units then covered by this Lease, for a five year period commencing on the scheduled expiration of the original term of this Lease, at a rental payable in ten (10) semi-annual payments payable on February 28 and August 28 of each year, each such payment to be in an amount equal to 2.08656% of the Purchase Price of each Unit and the Lessee may, by written notice delivered to the Lessor not less than six months prior to the expiration of the term to which this Lease may have been extended by the exercise by the Lessee of the right of extension granted above elect to extend the term of this Lease in respect to all, but not fewer than all, Units then covered by this Lease for a second and final five year period commencing on the scheduled expiration of the first renewal term of this Lease, at a rental payable in ten (10) semi-annual payments payable on February 28 and August 28 of each year, each such payment to be in an amount equal to .83462% of the Purchase Price of each Unit.

Fair Market Value shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user (other than (i) a lessee currently in possession or (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such value.

If on or before four months prior to the expiration of the original term hereof, or any extended term, as the case may be, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Value of the relevant Units, such value shall be determined in accordance with the foregoing definitions by a qualified independent Appraiser. The term Appraiser shall mean such independent appraiser as the Lessor and the Lessee may mutually agree upon, or, failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. The expenses and fee of the Appraiser shall be borne mutually by the Lessor and the Lessee. In the event the Lessee elects to purchase the Units, upon payment of the purchase price, the Lessor shall upon request of the Lessee deliver to or upon the order of the Lessee a bill of sale (without warranties) for such Units executed by the Lessor and such other or others as may be required in order to transfer to the Lessee such title to such Unit as the Lessor and the Vendor derived from the respective Manufacturer free and clear of all liens, security interests and other encumbrances arising through the Lessee and the Vendor.

§ 13. *Return of Units upon Expiration of Term.* As soon as practicable on or after the expiration of the original or any extended term of this Lease,

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the Lessee will (unless the Units are sold to the Lessee or shall have suffered a Casualty Occurrence), at its own cost and expense, at the request of the Lessor, deliver possession of any Units to the Lessor upon such storage tracks of the Lessee as the Lessor may reasonably designate and permit the Lessor to store such Unit on such tracks for a period not exceeding 180 days and transport the same, at any time within such 180 day period, to any reasonable place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as directed by the Lessor upon not less than 30 days' written notice to the Lessee; the movement and storage of the Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any Unit, to inspect the same; *provided, however*, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court having jurisdiction in the premises, the Lessor shall be entitled to a judgment, order or decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. If the Lessor shall elect to abandon any Unit as herewith provided, it may deliver written notice to such effect to the Lessee and the Lessee shall thereupon assume and hold the Lessor harmless from all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice. Each Unit returned to Lessor pursuant to this Section shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted and (ii) meet the standards then in effect under the interchange rules of the Association of American Railroads if applicable and the Canadian Transport Commission.

The Lessor may by written notice to the Lessee within the above mentioned 180 days abandon all or any of the Units being stored on the storage tracks of the Lessee and thereupon the Lessee shall assume full responsibility and liability for such Unit or Units and the Lessor shall, upon the request of the Lessee, deliver to or upon the order of the Lessee a bill of sale (without warranties) for such Units executed by the Lessor and such other or others as may be required in order to transfer to the Lessee such title to such Units as the Lessor and the Vendor derived from the respective Manufacturer free and clear of all liens, security interests and other encumbrances arising through the Lessor and the Vendor.

§ 14. *Opinions of Counsel for the Lessee, the Lessor, the Manufacturers and the Vendor.* On each Closing Date (as that term is defined in the Manufacturing Agreements), as a condition to the obligation of the Lessor to continue there-

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after to lease the Units to the Lessee hereunder, the Lessee will deliver to the Lessor and the Vendor counterparts, addressed to the Lessor and the Vendor, in scope and substance satisfactory to the Lessor and the Vendor and their respective counsel of:

(i) the written opinion of counsel for the Lessee to the effect that:

A. the Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of Canada, with adequate corporate power to enter into this Lease;

B. the Manufacturing Agreements, this Lease and any consent and agreement executed by the Lessee (hereinafter called the Consent) in connection with any assignment hereof to the Vendor have been duly authorized, executed and delivered by the Lessee and constitute legal and valid agreements binding upon the Lessee and enforceable in accordance with their terms;

C. upon the due deposit of the Trust Declaration and of this Lease and of any Trust Supplement or Lease Schedule theretofore executed and the Consent in the office of the Registrar General of Canada and upon the giving of notice of such deposit in *The Canada Gazette* in accordance with Section 86 of the Railway Act R.S.C. 1970, c. R-2, no other act, filing, recording (or giving of notice) in respect of this Lease is necessary in order to protect the interests hereunder of the Lessor in and to the Units in Canada or any Province or Territory thereof against any and all subsequent purchasers or mortgagees from the Lessee and/or from creditors of the Lessee.

D. no approval is required from any public regulatory body with respect to the entering into or performance of this Lease or the Manufacturing Agreement or execution of the Consent by the Lessee, or if any such approval is required, it has been properly obtained;

E. the entering into and performance of this Lease, Manufacturing Agreements and the execution of the Consent will not result in any breach of, or constitute a default under any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Lessee is a party or by which it may be bound or contravene any provision of law, statute, rule or regulation to which the Lessee is subject or any judgment, decree, franchise, order or permit applicable to the Lessee and

The Lessee also agrees to furnish to the Lessor and the Trustee a copy, certified by the Secretary or an Assistant Secretary of the Lessee, of resolutions of the Board of Directors of the Lessee authorizing the Lessee to enter into this Lease and the Consent.

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On each Closing Date, the Lessor will deliver to the Vendor and the Lessee counterparts, addressed to the Vendor and the Lessee, in scope and substance satisfactory to the Vendor and the Lessee and their respective counsel:

(i) of the written opinion of counsel for the Lessor to the effect that:

A. the Lessor is a corporation legally incorporated and validly existing, in good standing, under the laws of Canada, with adequate corporate power to enter into the Conditional Sale Agreement, this Lease and any assignment thereof; and

B. the Manufacturing Agreements, the Conditional Sale Agreement, this Lease and any assignment hereof to the Vendor have been duly authorized, executed and delivered by the Lessor and constitute legal and valid agreements binding upon the Lessor and enforceable in accordance with their terms; and

C. the entering into and performance of the Conditional Sale Agreement, Manufacturing Agreement and this Lease will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Lessor is a party or by which it may be bound or contravene any provision of law, statute, rule or regulation to which the Lessor is subject or any judgment, decree, franchise, order or permit applicable to the Lessor.

(ii) of the written opinion of counsel for the Manufacturer or Manufacturers delivering Units on such Closing Date to the effect that such Bill of Sale has been duly authorized, executed and delivered, that such Bill of Sale is valid and effective to transfer to the Vendor title in such Units free from all prior liens, charges or other encumbrances and that, at the time of delivery thereof to the Vendor under the Manufacturing Agreement, each Unit was free of all claims, liens, security interests and other encumbrances except only the rights of the Lessor as purchaser under the Conditional Sale Agreement and the rights of the Lessee under this Lease.

(iii) of the written opinion of counsel for the Vendor to the effect that:

A. the Vendor is a corporation legally incorporated and validly existing, in good standing, under the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into the Trust Declaration, the Manufacturing Agreements and the Conditional Sale Agreement; and

B. the Trust Declaration, the Manufacturing Agreements and the Conditional Sale Agreement have been duly authorized, executed and delivered by the Vendor and constitute legal and valid agreements binding upon the Vendor and enforceable in accordance with their terms; and

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C. at the time of delivery thereof to the Lessor under the Conditional Sale Agreement, each Unit was free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and the rights of the Lessee under this Lease.

D. The entering into and performance of the Trust Declaration, the Conditional Sale Agreement and the Manufacturing Agreements will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Vendor is a party or by which it may be bound or contravene any provision of law, statute, rule or regulation to which the Vendor is subject or any judgment, decree, franchise, order or permit applicable to the Vendor.

In giving the opinions required by this §14, counsel may qualify their opinions relating to the enforceability of agreements in accordance with their terms as being subject to any applicable bankruptcy, re-organization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally from time to time in effect.

§ 15. *Income Taxes.* The Lessor, as the owner of each Unit, shall be entitled to capital cost allowance with respect to the Units computed at a rate of not less than 20% per annum on a declining balance against all its income from whatever source as provided by the Income Tax Act (Canada), the Regulations thereunder, corporate income tax statutes of any province or territory of Canada, and the regulations thereunder, all as amended to the date hereof (hereinafter collectively referred to as the Act).

If, due to any amendment, change or repeal of the Act, in whole or in part, occurring within the first eight years of the term hereof (but other than for the reasons set forth below) the Lessor shall lose or shall not have the right to claim or shall suffer a disallowance of all or any portion of such capital cost allowance with respect to any Unit, the rental rate applicable to such Unit set forth in § 2 of this Lease shall, on and after the next succeeding rental payment date after written notice to the Lessee by the Lessor that such capital cost allowance has not been claimed, or if claimed and then disallowed on and after the next succeeding rental date after payment of the tax attributable thereto, be increased by such amount for such Unit which, in the reasonable opinion of the Lessor, will cause the Lessor's net return in respect of such Unit under this Lease to equal the net return that would have been available if the Lessor had been entitled to utilization of all or such portion of such capital cost allowance which was not claimed or was disallowed and the Lessee shall forthwith pay to the Lessor the amount of any interest and/or penalty, which may be

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assessed under the Act against the Lessor attributable to the loss of all or any portion of such capital cost allowance; *provided, however*, that such rental rate shall not be so increased if the Lessor shall have lost, or shall not have, or shall have lost the right to claim, or if there shall have been disallowed with respect to the Lessor, all or any portion of such capital cost allowance with respect to such Unit as a direct result of the occurrence of any of the following events:

(i) a Casualty Occurrence with respect to such Unit, if the Lessee shall have paid to the Lessor the amounts stipulated under § 6 hereof;


(ii) a voluntary transfer by the Lessor (other than by the assignment of this Lease to the Vendor) of legal title to such Unit, the disposition by the Lessor of any interest in such Unit or the reduction by the Lessor of its interest in the rentals from such Unit under the Lease, unless, in each case, an Event of Default shall have occurred and be continuing;

(iii) the amendment either of the Conditional Sale Agreement or of the assignment of this Lease to the Vendor without the prior written consent of the Lessee;

(iv) the failure of the Lessor to claim such capital cost allowance in its income tax return for the appropriate year or the failure of the Lessor to follow proper procedure in claiming such capital cost allowance; or

(v) the failure of the Lessor to have sufficient income to benefit from the deduction of such capital cost allowance.

The Lessor agrees that if, in the opinion of its or the Lessee's independent tax counsel (herein referred to as Counsel), a bona fide claim to all or a portion of such capital cost allowance on any Unit, exists in respect of which the Lessee is required to pay increased rental and interest and/or penalty as aforesaid to the Lessor as above provided, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such claim. The Lessor may take such action prior to making payment of the amounts claimed pursuant to a notice of disallowance or may make such payment and then sue for a refund. In the latter event, if the final determination shall be adverse to the Lessor, the Lessee shall pay to the Lessor interest on the amount of the tax paid attributable to such capital cost allowance disallowed, computed at the rate of ~~9~~ 10% per annum from the date of payment of such tax to the date the Lessee shall reimburse the Lessor for such tax in accordance with the provisions of this § 15.



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So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Units and to the use thereof by it or any affiliated or subsidiary corporation upon its or their lines of railroad or upon lines of railroad over which the Lessee or such other Corporation has trackage or other operating rights or over which railroad equipment of the Lessee or any such other corporation is regularly operated pursuant to contract, and also to permit the use of the Units upon other railroads in the usual interchange of traffic (if such interchange is customary at the time), but only upon and subject to all the terms and conditions of this Lease and the Conditional Sale Agreement.

Nothing in this § 11 shall be deemed to restrict the right of the Lessee (i) to assign or transfer its leasehold interest under this Lease in the Units or position of the Units to any corporation incorporated under the laws of Canada (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become amalgamated, merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety; or (ii) to sublease any Unit to such subsidiary or affiliated corporations of the Lessee as are at the time such sublease is executed domestic railroad corporations incorporated under the laws of Canada or any province thereof or any state of the United States of America or the District of Columbia; *provided, however*, that the rights of such sublessee are made expressly subordinate to the rights and remedies of the Vendor under the Conditional Sale Agreement and the Lessor under this Lease. No such sublease shall relieve the Lessee of any liability or obligation hereunder which shall be and remain that of a principal and not a surety.

§ 12. *Purchase and Renewal Options.* Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by written notice delivered to the Lessor not less than six months prior to the expiration of the original term of this Lease or six months prior to the expiration of any extended term of this Lease elect to purchase all or any of the Units then covered by this Lease at the end of the original term of this Lease or at the end of any extended term of this Lease for a purchase price equal to the "Fair Market Value" of such units as of the end of such term. If at the end of the original term of this Lease or at the end of the first extended term of this Lease the Lessee shall elect to purchase less than all of the Units then covered by this Lease the Units purchased by the Lessee shall cease to be Units then covered by this Lease and such purchase shall not affect the Lessee's right as to the balance of the Units covered by this Lease to extend the term of this Lease as aforesaid.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by written notice delivered to the Lessor not less than six months prior to the expiration of the original term of this Lease elect to extend the term of this Lease in respect to all, but not fewer

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than all, Units then covered by this Lease, for a five year period commencing on the scheduled expiration of the original term of this Lease, at a rental payable in ten (10) semi-annual payments payable on February 28 and August 28 of each year, each such payment to be in an amount equal to 2.08656% of the Purchase Price of each Unit and the Lessee may, by written notice delivered to the Lessor not less than six months prior to the expiration of the term to which this Lease may have been extended by the exercise by the Lessee of the right of extension granted above elect to extend the term of this Lease in respect to all, but not fewer than all, Units then covered by this Lease for a second and final five year period commencing on the scheduled expiration of the first renewal term of this Lease, at a rental payable in ten (10) semi-annual payments payable on February 28 and August 28 of each year, each such payment to be in an amount equal to .83462% of the Purchase Price of each Unit.

Fair Market Value shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user (other than (i) a lessee currently in possession or (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such value.

If on or before four months prior to the expiration of the original term hereof, or any extended term, as the case may be, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Value of the relevant Units, such value shall be determined in accordance with the foregoing definitions by a qualified independent Appraiser. The term Appraiser shall mean such independent appraiser as the Lessor and the Lessee may mutually agree upon, or, failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. The expenses and fee of the Appraiser shall be borne mutually by the Lessor and the Lessee. In the event the Lessee elects to purchase the Units, upon payment of the purchase price, the Lessor shall upon request of the Lessee deliver to or upon the order of the Lessee a bill of sale (without warranties) for such Units executed by the Lessor and such other or others as may be required in order to transfer to the Lessee such title to such Unit as the Lessor and the Vendor derived from the respective Manufacturer free and clear of all liens, security interests and other encumbrances arising through the Lessee and the Vendor.

§ 13. *Return of Units upon Expiration of Term.* As soon as practicable on or after the expiration of the original or any extended term of this Lease,

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the Lessee will (unless the Units are sold to the Lessee or shall have suffered a Casualty Occurrence), at its own cost and expense, at the request of the Lessor, deliver possession of any Units to the Lessor upon such storage tracks of the Lessee as the Lessor may reasonably designate and permit the Lessor to store such Unit on such tracks for a period not exceeding 180 days and transport the same, at any time within such 180 day period, to any reasonable place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as directed by the Lessor upon not less than 30 days' written notice to the Lessee; the movement and storage of the Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any Unit, to inspect the same; *provided, however*, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court having jurisdiction in the premises, the Lessor shall be entitled to a judgment, order or decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. If the Lessor shall elect to abandon any Unit as herewith provided, it may deliver written notice to such effect to the Lessee and the Lessee shall thereupon assume and hold the Lessor harmless from all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice. Each Unit returned to Lessor pursuant to this Section shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted and (ii) meet the standards then in effect under the interchange rules of the Association of American Railroads if applicable and the Canadian Transport Commission.

The Lessor may by written notice to the Lessee within the above mentioned 180 days abandon all or any of the Units being stored on the storage tracks of the Lessee and thereupon the Lessee shall assume full responsibility and liability for such Unit or Units and the Lessor shall, upon the request of the Lessee, deliver to or upon the order of the Lessee a bill of sale (without warranties) for such Units executed by the Lessor and such other or others as may be required in order to transfer to the Lessee such title to such Units as the Lessor and the Vendor derived from the respective Manufacturer free and clear of all liens, security interests and other encumbrances arising through the Lessor and the Vendor.

§ 14. *Opinions of Counsel for the Lessee, the Lessor, the Manufacturers and the Vendor.* On each Closing Date (as that term is defined in the Manufacturing Agreements), as a condition to the obligation of the Lessor to continue there-

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after to lease the Units to the Lessee hereunder, the Lessee will deliver to the Lessor and the Vendor counterparts, addressed to the Lessor and the Vendor, in scope and substance satisfactory to the Lessor and the Vendor and their respective counsel of:

(i) the written opinion of counsel for the Lessee to the effect that:

A. the Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of Canada, with adequate corporate power to enter into this Lease;

B. the Manufacturing Agreements, this Lease and any consent and agreement executed by the Lessee (hereinafter called the Consent) in connection with any assignment hereof to the Vendor have been duly authorized, executed and delivered by the Lessee and constitute legal and valid agreements binding upon the Lessee and enforceable in accordance with their terms;

C. upon the due deposit of the Trust Declaration and of this Lease and of any Trust Supplement or Lease Schedule theretofore executed and the Consent in the office of the Registrar General of Canada and upon the giving of notice of such deposit in *The Canada Gazette* in accordance with Section 86 of the Railway Act R.S.C. 1970, c. R-2, no other act, filing, recording (or giving of notice) in respect of this Lease is necessary in order to protect the interests hereunder of the Lessor in and to the Units in Canada or any Province or Territory thereof against any and all subsequent purchasers or mortgagees from the Lessee and/or from creditors of the Lessee.

D. no approval is required from any public regulatory body with respect to the entering into or performance of this Lease or the Manufacturing Agreement or execution of the Consent by the Lessee, or if any such approval is required, it has been properly obtained;

E. the entering into and performance of this Lease, Manufacturing Agreements and the execution of the Consent will not result in any breach of, or constitute a default under any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Lessee is a party or by which it may be bound or contravene any provision of law, statute, rule or regulation to which the Lessee is subject or any judgment, decree, franchise, order or permit applicable to the Lessee and

The Lessee also agrees to furnish to the Lessor and the Trustee a copy, certified by the Secretary or an Assistant Secretary of the Lessee, of resolutions of the Board of Directors of the Lessee authorizing the Lessee to enter into this Lease and the Consent.

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On each Closing Date, the Lessor will deliver to the Vendor and the Lessee counterparts, addressed to the Vendor and the Lessee, in scope and substance satisfactory to the Vendor and the Lessee and their respective counsel:

(i) of the written opinion of counsel for the Lessor to the effect that:

A. the Lessor is a corporation legally incorporated and validly existing, in good standing, under the laws of Canada, with adequate corporate power to enter into the Conditional Sale Agreement, this Lease and any assignment thereof; and

B. the Manufacturing Agreements, the Conditional Sale Agreement, this Lease and any assignment hereof to the Vendor have been duly authorized, executed and delivered by the Lessor and constitute legal and valid agreements binding upon the Lessor and enforceable in accordance with their terms; and

C. the entering into and performance of the Conditional Sale Agreement, Manufacturing Agreement and this Lease will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Lessor is a party or by which it may be bound or contravene any provision of law, statute, rule or regulation to which the Lessor is subject or any judgment, decree, franchise, order or permit applicable to the Lessor.

(ii) of the written opinion of counsel for the Manufacturer or Manufacturers delivering Units on such Closing Date to the effect that such Bill of Sale has been duly authorized, executed and delivered, that such Bill of Sale is valid and effective to transfer to the Vendor title in such Units free from all prior liens, charges or other encumbrances and that, at the time of delivery thereof to the Vendor under the Manufacturing Agreement, each Unit was free of all claims, liens, security interests and other encumbrances except only the rights of the Lessor as purchaser under the Conditional Sale Agreement and the rights of the Lessee under this Lease.

(iii) of the written opinion of counsel for the Vendor to the effect that:

A. the Vendor is a corporation legally incorporated and validly existing, in good standing, under the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into the Trust Declaration, the Manufacturing Agreements and the Conditional Sale Agreement; and

B. the Trust Declaration, the Manufacturing Agreements and the Conditional Sale Agreement have been duly authorized, executed and delivered by the Vendor and constitute legal and valid agreements binding upon the Vendor and enforceable in accordance with their terms; and

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C. at the time of delivery thereof to the Lessor under the Conditional Sale Agreement, each Unit was free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and the rights of the Lessee under this Lease.

D. The entering into and performance of the Trust Declaration, the Conditional Sale Agreement and the Manufacturing Agreements will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Vendor is a party or by which it may be bound or contravene any provision of law, statute, rule or regulation to which the Vendor is subject or any judgment, decree, franchise, order or permit applicable to the Vendor.

In giving the opinions required by this §14, counsel may qualify their opinions relating to the enforceability of agreements in accordance with their terms as being subject to any applicable bankruptcy, re-organization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally from time to time in effect.

§ 15. *Income Taxes.* The Lessor, as the owner of each Unit, shall be entitled to capital cost allowance with respect to the Units computed at a rate of not less than 20% per annum on a declining balance against all its income from whatever source as provided by the Income Tax Act (Canada), the Regulations thereunder, corporate income tax statutes of any province or territory of Canada, and the regulations thereunder, all as amended to the date hereof (hereinafter collectively referred to as the Act).

If, due to any amendment, change or repeal of the Act, in whole or in part, occurring within the first eight years of the term hereof (but other than for the reasons set forth below) the Lessor shall lose or shall not have the right to claim or shall suffer a disallowance of all or any portion of such capital cost allowance with respect to any Unit, the rental rate applicable to such Unit set forth in § 2 of this Lease shall, on and after the next succeeding rental payment date after written notice to the Lessee by the Lessor that such capital cost allowance has not been claimed, or if claimed and then disallowed on and after the next succeeding rental date after payment of the tax attributable thereto, be increased by such amount for such Unit which, in the reasonable opinion of the Lessor, will cause the Lessor's net return in respect of such Unit under this Lease to equal the net return that would have been available if the Lessor had been entitled to utilization of all or such portion of such capital cost allowance which was not claimed or was disallowed and the Lessee shall forthwith pay to the Lessor the amount of any interest and/or penalty, which may be

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assessed under the Act against the Lessor attributable to the loss of all or any portion of such capital cost allowance; *provided, however*, that such rental rate shall not be so increased if the Lessor shall have lost, or shall not have, or shall have lost the right to claim, or if there shall have been disallowed with respect to the Lessor, all or any portion of such capital cost allowance with respect to such Unit as a direct result of the occurrence of any of the following events:

(i) a Casualty Occurrence with respect to such Unit, if the Lessee shall have paid to the Lessor the amounts stipulated under § 6 hereof;


(ii) a voluntary transfer by the Lessor (other than by the assignment of this Lease to the Vendor) of legal title to such Unit, the disposition by the Lessor of any interest in such Unit or the reduction by the Lessor of its interest in the rentals from such Unit under the Lease, unless, in each case, an Event of Default shall have occurred and be continuing;

(iii) the amendment either of the Conditional Sale Agreement or of the assignment of this Lease to the Vendor without the prior written consent of the Lessee;

(iv) the failure of the Lessor to claim such capital cost allowance in its income tax return for the appropriate year or the failure of the Lessor to follow proper procedure in claiming such capital cost allowance; or

(v) the failure of the Lessor to have sufficient income to benefit from the deduction of such capital cost allowance.

The Lessor agrees that if, in the opinion of its or the Lessee's independent tax counsel (herein referred to as Counsel), a bona fide claim to all or a portion of such capital cost allowance on any Unit, exists in respect of which the Lessee is required to pay increased rental and interest and/or penalty as aforesaid to the Lessor as above provided, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such claim. The Lessor may take such action prior to making payment of the amounts claimed pursuant to a notice of disallowance or may make such payment and then sue for a refund. In the latter event, if the final determination shall be adverse to the Lessor, the Lessee shall pay to the Lessor interest on the amount of the tax paid attributable to such capital cost allowance disallowed, computed at the rate of ~~9~~ 10% per annum from the date of payment of such tax to the date the Lessee shall reimburse the Lessor for such tax in accordance with the provisions of this § 15.



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The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested.

The Lessee's agreement to pay any sums which may become payable pursuant to this § 15 shall survive the expiration or other termination of this Lease.

§ 16. *Mileage Allowance; Subrogation.* Provided the Lessee is not in default hereunder, the Lessee shall be entitled to (i) all mileage allowances and other moneys payable by reason of the use of the Units, and any such mileage allowances or other moneys received by the Lessor shall be forthwith remitted to the Lessee, and (ii) the proceeds of any claim or right of the Lessor or the Lessee against third persons for injury, damage or loss with respect to any Unit or the use or operation thereof, including settlements pursuant to the rules of the Association of American Railroads, up to an amount equal to the Casualty Value of any Unit which shall have suffered a Casualty Occurrence, paid by the Lessee to the Lessor or the actual expense of repair of a Unit not suffering a Casualty Occurrence paid by the Lessee, as set forth in a certificate of the Treasurer or Chief Accounting Officer of the Lessee, and the Lessee shall be subrogated to the extent of the Lessee's interest to all the Lessor's rights of recovery therefor against any other person, firm or corporation. The Lessor hereby authorizes the Lessee to make settlement of, receive payment and receipt for any and all such claims on behalf of the Lessor, and the Lessor agrees to execute and deliver from time to time such instruments and do such other acts and things as may be necessary or appropriate more fully to evidence the Lessee's authority and/or to vest in the Lessee such proceeds to the extent of the Lessee's interest therein or to effect such subrogation; and in the event of any loss, damage or destruction in respect of which the Lessee is entitled to proceeds or subrogation as aforesaid, the Lessor shall refrain from doing any act or executing any instrument which would prejudice the right of the Lessee to such proceeds or to such subrogation.

§ 17. *Additional Covenant of the Lessee.* The Lessee covenants and agrees from time to time at its expense to do all acts and execute all such instruments of further assurance as it shall be reasonably requested by the Lessor to do or execute for the purpose of fully carrying out and effectuating this Lease and the intent hereof.

§ 18. *Recording; Expenses.* Prior to the delivery and acceptance of any of the Units, the Lessor will, at the expense of the Lessor, cause this Lease and any assignment hereof (a) to be duly deposited in the office of the Registrar General of Canada and will cause the required notice of such deposit forthwith

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thereafter to be published in *The Canada Gazette* in accordance with Section 86 of the Railway Act R.S.C. 1970, c. R-2 and (b) to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act of the United States of America.

The Lessee will, from time to time and at its expense, do and perform any act and will execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Lessor for the purpose of proper protection, to the satisfaction of the Lessor and its counsel, of the Vendor's and the Lessor's respective interests hereunder in the Units, or for the purpose of carrying out the intention of this Lease and any assignment hereof. The Lessee will promptly furnish to the Vendor and the Lessor evidence of such execution, acknowledgement and delivery.

The Lessor will pay the reasonable costs and expenses involved in the preparation and printing of this Lease. The Lessor and the Lessee will each, respectively, bear the fees and disbursements of any counsel which it may respectively retain.

§ 19. *Interest on Overdue Rentals.* Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay also an amount equal to 9% per annum of the amount of the overdue rentals for the period of time during which they are overdue.

§ 20. *Notices.* Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in a Canadian Post Box, first-class postage prepaid, addressed as follows:

if to the Lessor, Two St. Clair Avenue West, Toronto, Ontario,
attention of the Treasurer;

if to the Lessee, at P.O. Box 8100, Montreal 101, Quebec, Canada,
attention of the Treasurer;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

§ 21. *Severability; Effect and Modification of Lease.* Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the Units and supersedes all other agreements, oral

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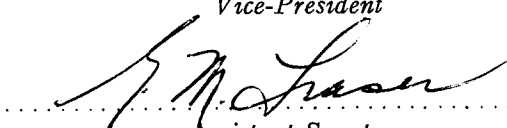
or written, with respect to the Units. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the parties hereto.

§ 22. *Execution.* This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and in each case such counterparts together shall constitute but one and the same instrument.

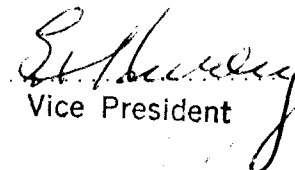

Although this Lease is dated as of February 28, 1972, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

§ 23. *Law Governing.* This Lease shall be construed in accordance with the laws of Ontario.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed, as of the date first above written.

CANADIAN ACCEPTANCE CORPORATION LIMITED
by 
Vice-President
[CORPORATE SEAL]

Assistant Secretary

CANADIAN NATIONAL RAILWAY COMPANY,

by 
Vice President
[CORPORATE SEAL]

ASSISTANT SECRETARY

Approved
as  Form
Attorney

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SCHEDULE A

Type and Specifications	Manufacturer	Manufacturer's Plant	Quantity	Road Numbers (inclusive)	Unit Base Price	Total Base Price	Date and Place of Delivery
4 Container Flat Cars; CN Specification F-50-9 dated June 1970, General Arrangement Drawing CN 9H-37285, Specification SS-1966 and Addendum No. 1 to Specification F-50-9 dated 24 March, 1971	Hawker Siddeley Canada Ltd.	Trenton, Nova Scotia	100	CN639527 to 639626	\$18,680.04	\$1,868,004.00	Mar.-Apr. 1972 F.O.B. Canadian National Railway Company tracks
100 Ton Drop End Gondola Cars; CN Specification F-60-9 dated May 1970, General Arrangement Drawing CN8H-37488-A and Specification SS 1966	Hawker Siddeley Canada Ltd.	Trenton, Nova Scotia	300	CN157000 to 157299	\$20,467.88	\$6,140,364.00	Mar.-May 1972 F.O.B. Canadian National Railway Company Tracks
70 Ton Bi-level Flat Cars; CN Specification F-150-1 dated May, 1971, General Arrangement Drawing CN9H-37477 and Specification SS 1966	Hawker Siddeley Canada Ltd.	Trenton, Nova Scotia	75	CN710500 to 710574	\$28,642.65	\$2,148,198.75	Apr.-May 1972 F.O.B. Canadian National Railway Company tracks
70-Ton Bi-level Flat Cars; CN Specification F-150-1 dated May 1971, General Arrangement Drawing CN9H-37477 and Specification SS 1966	Hawker Siddeley Canada Ltd.	Trenton, Nova Scotia	75	CN710575 to 710649	\$28,206.69	\$2,115,501.75	May-June 1972 F.O.B. Canadian National Railway Company tracks
Woodchip Cars; CN Specification F-160-3 dated September 1971, General Arrangement Drawing 9H-37570-A and Specifications SS 1966	National Steel Car Corporation, Limited	Hamilton, Ontario	125	CN880600 to 880724	\$16,167.68	\$2,020,960.00	Mar.-Apr. 1972 F.O.B. Canadian National Railway Company tracks

LEASE OF RAILROAD EQUIPMENT

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SCHEDULE B

EQUIPMENT LEASE—SCHEDULE NO. ●

Dated the day of , 1972 to Lease dated as of the 28th day of February, 1972 ("Lease") between CANADIAN ACCEPTANCE CORPORATION LIMITED ("Lessor") and CANADIAN NATIONAL RAILWAY COMPANY ("Lessee").

1. The terms used herein shall have the meaning given to such terms in the Lease in accordance with the terms thereof.
2. The Lessor and the Lessee hereby confirm that the Units of Equipment described in Schedule "A" annexed hereto and forming part hereof have been delivered to, examined and accepted by the Lessee on the date hereof as Units leased under the Lease and are accordingly subject to and governed thereby and that the term of the Lease with respect thereto shall commence on the date hereof.
3. The Lessee does hereby acknowledge and confirm that the said Units of Equipment have been examined by duly appointed and authorized employees or representatives of the Lessee and that such examination discloses that same conform to the Specifications more particularly defined in the Manufacturing Agreements and are in good operating order, repair, condition and appearance on the date hereof.
4. The Lessee does hereby certify that at the time of such delivery of the Units to the Lessee there was plainly, permanently and conspicuously stencilled on each side thereof the following legend in letters not less than three-eighths inch in height:

"OWNED BY CANADA PERMANENT TRUST COMPANY, 320 BAY STREET, TORONTO, CANADA, AS TRUSTEE AND VENDOR UNDER THE TERMS OF AN EQUIPMENT LOAN TRUST DECLARATION AND A CONDITIONAL SALE AGREEMENT".

Approved and agreed to this day of , 1972 as a Schedule to and part of the Lease made between the parties hereto as of the 28th day of February, 1972.

CANADIAN ACCEPTANCE CORPORATION LIMITED

By:.....

CANADIAN NATIONAL RAILWAY COMPANY

By:.....

LEASE OF RAILROAD EQUIPMENT

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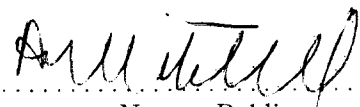
SCHEDULE "A" TO EQUIPMENT LEASE SCHEDULE NO.			
<u>QUANTITY</u>	<u>DESCRIPTION OF UNITS</u>	<u>MANUFACTURER</u>	<u>IDENTIFYING NUMBERS</u>

LEASE OF RAILROAD EQUIPMENT

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PROVINCE OF ONTARIO }
CITY OF TORONTO }

On this 7th day of MARCH, 1972, before me personally appeared
JAMES D. JWINSTON to me personally known, who, being by me duly sworn, says
that he is a Vice President of CANADIAN ACCEPTANCE CORPORATION LIMITED,
that one of the seals affixed to the foregoing instrument is the corporate seal of
said corporation and that said instrument was signed and sealed on behalf of
said corporation by authority of its Board of Directors and he acknowledged
that the execution of the foregoing instrument was the free act and deed of
said corporation.

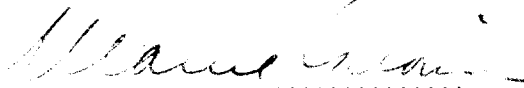

.....
Notary Public

[NOTARIAL SEAL]

My Commission is for life.

PROVINCE OF QUEBEC }
CITY OF MONTREAL }

On this 6th day of MARCH, 1972, before me personally appeared
J. D. Hickey, to me personally known, who, being by me duly sworn, says
that he is a Director of CANADIAN NATIONAL RAILWAY COMPANY, that
one of the seals affixed to the foregoing instrument is the corporate seal of
said corporation and that said instrument was signed and sealed on behalf of
said corporation by authority of its Board of Directors and he acknowledged
that the execution of the foregoing instrument was the free act and deed of
said corporation.


.....
Notary Public

[NOTARIAL SEAL]

My Commission is for life.